



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 220223-0054; RTID 0648-XC322]

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Atka Mackerel in the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amount of the 2022 Atka mackerel incidental catch allowance (ICA) for the Bering Sea subarea and Eastern Aleutian district (BS/EAI) to the Amendment 80 cooperative allocation for the BS/EAI in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow the 2022 total allowable catch of Atka mackerel in the BSAI to be fully harvested.

DATES: Effective 12:00 p.m. Alaska local time (A.l.t.), November 7, 2022, through 12:00 a.m., A.l.t., January 1, 2023.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2022 Atka mackerel ICA for the BS/EAI is 800 metric tons (mt) and the 2022 Atka mackerel total allowable catch allocated to the Amendment 80 cooperative for the

BS/EAI is 21,083 mt as established by the final 2022 and 2023 harvest specifications for groundfish in the BSAI (87 FR 11626, March 2, 2022).

The Administrator, Alaska Region, NMFS, has determined that 609 mt of the Atka mackerel ICA for the BS/EAI will not be harvested. Therefore, in accordance with § 679.91(f), NMFS reallocates 609 mt of Atka mackerel from the BS/EAI ICA to the BS/EAI Amendment 80 cooperative allocation in the BSAI. In accordance with § 679.91(f), NMFS will reissue cooperative quota permit for the reallocated Atka mackerel following the procedures set forth in § 679.91(f)(3).

The harvest specifications for Atka mackerel included in the harvest specifications for groundfish in the BSAI (87 FR 11626, March 2, 2022) are revised as follows: 191 mt of Atka mackerel for the BS/EAI ICA and 21,692 mt of Atka mackerel for the Amendment 80 cooperative allocation for the BS/EAI. Table 6 is revised and republished in its entirety as follows:

Table 6 – Final 2022 Seasonal and Spatial Allowances, Gear Shares, CDQ Reserve, Incidental Catch Allowance, and Amendment 80 Allocations of the BSAI Atka Mackerel Tac

[Amounts are in metric tons]

Sector ¹	Season ^{2,3,4}	2022 allocation by area		
		Eastern Aleutian District/Bering Sea	Central Aleutian District ⁵	Western Aleutian District
TAC	n/a	27,260	16,880	22,341
CDQ reserve	Total	2,917	1,806	2,390
	A	1,458	903	1,195
	Critical Habitat	n/a	542	717
	B	1,458	903	1,195
	Critical Habitat	n/a	542	717
Non-CDQ TAC	n/a	24,343	15,074	19,951
ICA	Total	191	75	20
Jig ⁶	Total	118	-	-
BSAI trawl limited access	Total	2,343	1,500	-
	A	1,171	750	-
	Critical Habitat	n/a	450	-
	B	1,171	750	-
	Critical Habitat	n/a	450	-
Amendment 80 sector	Total	21,692	13,499	19,931
	A	10,846	6,749	9,965
	Critical Habitat	n/a	4,050	5,979
	B	10,846	6,749	9,965
	Critical Habitat	n/a	4,050	5,979

¹ Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtracting the CDQ reserves, ICAs, and jig gear allocation, to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC for Atka mackerel to the Amendment 80 and BSAI trawl limited access sectors is established in Table 33 to 50 CFR part 679 and § 679.91. The CDQ reserve is 10.7 percent of the TAC for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31).

² Sections 679.20(a)(8)(ii)(A) and 679.22(a) establish temporal and spatial limitations for the Atka mackerel fishery.

³ The seasonal allowances of Atka mackerel are 50 percent in the A season and 50 percent in the B season.

⁴ Section 679.23(e)(3) authorizes directed fishing for Atka mackerel with trawl gear during the A season from January 20 to June 10 and the B season from June 10 to December 31.

⁵Section 679.20(a)(8)(ii)(C)(I)(i) limits no more than 60 percent of the annual TACs in Areas 542 and 543 to be caught inside of Steller sea lion critical habitat; section 679.20(a)(8)(ii)(C)(I)(ii) equally divides the annual TACs between the A and B seasons as defined at § 679.23(e)(3); and section 679.20(a)(8)(ii)(C)(2) requires that the TAC in Area 543 shall be no more than 65 percent of ABC in Area 543.

⁶ Sections 679.2 and 679.20(a)(8)(i) require that up to 2 percent of the Eastern Aleutian Islands District and the Bering Sea subarea TAC be allocated to jig gear after subtracting the CDQ reserve and the ICA. NMFS sets the amount of this allocation for 2022 at 0.5 percent. The jig gear allocation is not apportioned by season.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

This will enhance the socioeconomic well-being of harvesters dependent upon Atka mackerel in this area. The Regional Administrator considered the following factors in reaching this decision: (1) the current catch of Atka mackerel ICA in the BS/EAI, (2)

the harvest capacity and stated intent on future harvesting patterns of the Amendment 80 cooperative that participates in this BS/EAI fishery.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion, and would delay the harvest of Atka mackerel in the BE/EAI fishery. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of November 4, 2022.

The Assistant Administrator for Fisheries, NOAA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 7, 2022.

Jennifer M. Wallace,
Acting Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.